

REMARKS

By this response, claims 1-4, 7-10, and 12-22 are pending. Compared to prior versions, claims 1, 8, 12, 16, 21, and 22 are amended and claim 11 is canceled. All others remain canceled or as originally or previously presented.

Applicant notes that in the Decision on Appeal dated November 14, 2008, the Board of Patent Appeals and Interferences reversed the rejection of dependent claims 11 and 12, holding the claims patentable over the cited references. *Decision on Appeal, Appeal 2007-3498, p. 14, l. 24 - p. 15, l. 2*. In response to this reversal, after expiration of the period for further appeal, the Examiner should either “[c]onvert the dependent claim[s] into independent form by examiner’s amendment” or “[s]et a 1-month time limit in which appellant may rewrite the dependent claim(s) in independent form.” M.P.E.P. § 1214.06.

Thus, Applicant has preemptively rewritten dependent claim 11 in independent form, by including the subject matter of dependent claim 11 in independent claim 8, and has amended dependent claim 12 to depend from independent claim 8. Applicant has also amended the remaining independent claims (1, 16, 21, and 22) to include the subject matter of dependent claim 11 that the Board held patentable over the cited references. Specifically, the Board held “Slivka does not describe calculating the subsequent scores both randomly and substantially each time the executed code is launched” and “we find no reason why a person of ordinary skill in the art would want to calculate scores both randomly and substantially each time the code is launched.” *Decision on Appeal, Appeal 2007-3498, p. 14, l. 24 - p. 15, l. 2*. Accordingly, Applicant submits that all of the pending claims are allowable over the cited references.

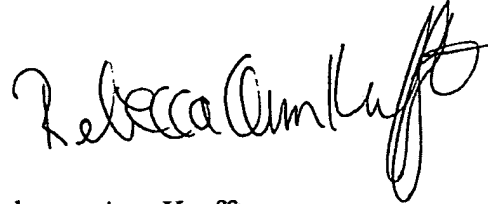
It is believed no obstacles to patentability remain in this application and Applicant requests a timely Notice of Allowance. To the extent any other matters require attention, please have the Examiner or the Primary Examiner contact Applicant’s attorney at the below-

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listed telephone number. *To the extent any fees are due, although none are believed due, the undersigned authorizes their deduction from Deposit Account No. 11-0978. Finally, Applicant requests a change in the attorney document number of record. Namely, please replace 971-128 with 1363-004.* The docket number changed when the new Power of Attorney (POA) went into effect.

Respectfully submitted,

KING & SCHICKLI, PLLC

A handwritten signature in black ink, appearing to read "Rebecca Ann Krefft", with a stylized flourish at the end.

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